

REMARKS

Rejection under 35 U.S.C. 112

Claims 3 and 8 are rejected under 35 U.S.C.112, second paragraph. Claim 3 reciting "chair" is alleged to be unclear.

Applicant has amended the specification and claims to define the word "chair" as "meaning a structure that has two parallel sheets of metal on either side joined by a cross member with the angle between either sheet and the cross member being at least 45 degrees". This definition is not new matter as all of the elements have already been disclosed. This definition now clarifies the meaning of "chair" in claims 3 and 8.

The Examiner states that the range of angle specified for the L-bend implies a V-shaped bend rather than L-bend. The issue is largely one of semantics as one could call such a bend either an L-shaped bend or a V-shaped bend. Obviously characterizing the bend as a V-shaped bend would be inappropriate for an angle equal to or close to 90 degrees. It is submitted that Applicant is free to define "L-shaped" in the disclosure and have that definition govern because of the ambiguity in defining the bend as either "L-shaped" or "V-shaped".

Rejection under 35 USC 103(a)

Claims 1-6, 8-14, 16-19 and 21-26 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Lipp in view of Bachhofer and Derwent English Abstract. As noted by the Examiner, Lipp teaches a continuous helical wall with the strips joined by folding the edges as in Figure 18. Applicant joins the edges by welding. Lipp discloses welding but only to improve stability. By applying a continuous weld Applicant is able to fabricate a tank with a leak-tight joint between the strips. The Lipp structure is not made leak-tight by welding continuously along the junction of the strip and the tube. The Lipp tube is intended for use in making tubular structures such as a silo for storing grain where a leak tight structure is not necessary.

The Examiner applies Bachhofer for its welded joint, however, it is not clear to Applicant that the Bachhofer weld is leak tight and continuous since it is designed only to enhance stability.

As noted by the Examiner Applicant first bends the edges and then welds the two edges together in a continuous elongated weld. Lipp teaches bending and folding. Combining Lipp with the cited references of Johnson and Bachhofer shows only folding to form the joint followed in some cases by welding to provide increased stability. Such a brnf cannot guide a wheel for support in a track setting. The problem arises because any type of roller or wheel would slip or become mis-aligned based on this concept. The tank would require a crane to lift the tank off of the roller guides and onto the

ground. Applicant's roller system only requires the drives to work in reverse and rotate it down onto the ground.

Applicant uses only welding. Applicant's system is simpler and less expensive to form a joint that is strong enough to withstand normal stresses as well as being leak tight.

Claims 1-6, 8-11, 13-14, 16-19, 21-24 and 26 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Lipp in view of Johnson. The Examiner asserts that welding and folding are functional equivalent techniques for joining adjacent metallic sheet edges in manufacturing metallic helical tanks. In fact, as long as the only requirements are strength of the joint, then the latter statement may be true, depending upon the strength of the joint in each case. However, if the tank is to hold liquid, then provided a leak tight weld is applied, the statement is not true.

The claim element "wherein said first bend is an "L" bend and said second bend is a chair bend" in Claim 1, is compared by the Examiner with structures that have multiple bends, one bend of which is taken to be the "L" bend and another the "chair" bend. One cannot ignore the other bends that are used in combination with the "L" bend and the "chair" bend as they affect the way the joints are made and their strength. One could take segments of each bend and describe them as either an "L-shaped" or a "chair-shaped" bend. For example, Figure 4a of Applicant shows an L-shaped bend 42 and a chair bend 44 consisting of a horizontal portion 46 and a vertical portion 48. The Examiner refers to Fig. 12 of Lipp and calls the first bend what is actually the third bend

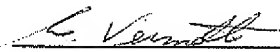
from the top or bottom and the last bend from the top, the chair bend. According to the Application, the top member and the second member below the top member form an L-shaped bend while the third and fourth members form a chair bend. These two bends are part of an integral three bend structure. The alleged L-shaped bend is being taken from a portion of an integral three bend, four member structure.

Accordingly, favourable re-consideration of the claims is respectfully solicited in view of the above amendments and comments.

Respectfully submitted

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